

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 2340 OF 2021

Subash Chandra Tripathy

**..... Petitioner
*Mr. S.K. Panda, Advocate***

-versus-

State of Odisha & Another

**..... Opposite Parties
*Mr.S.S. Pradhan, AGA***

CORAM:

JUSTICE V. NARASINGH

ORDER

30.06.2022

I.A. No. 1101 of 2022

Order No.

05.

1. This matter is taken up through Hybrid Mode.
2. Heard Mr. Acharya, learned Senior Counsel assisted by Mr. D.K. Nayak, learned counsel for the Opposite Party No.2.
3. This I.A. has been preferred by the Opposite Party No.2 seeking the following relief;

“ P R A Y E R

In view of the above it is respectfully prayed the Hon'ble Court may graciously be pleased to issue notice to the petitioner and after hearing may initiate criminal proceeding U/s. 340 of Cr.P.C. against him besides initiating criminal contempt for filing such false affidavit and for this act of kindness, the petitioner shall, as in duty bound, ever pray.”.

4. At the outset the learned Senior Counsel submits that this application be treated as one under Section 191 of the I.P.C. read with Section 340 of the Cr.P.C.

5. The brief facts, which are germane for just adjudication is stated hereunder;

In CRLMC No. 2340 of 2021 Ms Sonali Das at whose instance the present I.A. has been filed was arrayed as Opposite Party No.2 and the prayer therein was for quashing the order of cognizance dtd. 31.12.2020 passed by the learned S.D.J.M., Anugul in G.R. Case No. 2072 of 2020 arising out of Anugul P.S. Case No. 1235 dtd. 02.11.2018, at the behest of Opposite Party No.2 as the complainant..

6. It is apt to state here that the learned Court had taken cognizance of the offences under Sections 376(2)(n) / 417 / 493 / 494/506 of the I.P.C.

7. In Paragraph-8 of the CRLMC petition, it was stated as under;

“ 08. That it is pertinent to mention here that during pendency of the case, the dispute has already been amicably settled between the parties before the village gentries and in presence of the both the family members and now the complainant is not interested to proceed with the case against the petitioner. ”

And taking note of such averments in Paragraph-8 by the petitioner, this Court by order dated 27.04.2022, issued notice to

Opposite Party No.2 by Registered Post with AD and as an interim measure, further proceeding pending before the learned S.D.J.M., Anugul in G.R. Case No. 2072 of 2020 was stayed.

8. It is submitted by the learned Senior Counsel that the assertion in Paragraph-8 was ex-facie false actuated by malice in as much as there was no amicable settlement between the parties as alleged and because of such false submission, this Court was persuaded to issue notice, specifically referring to Paragraph-8.

9. It is further submitted that the petitioner later on chose to withdraw the CRLMC. And after withdrawal has invoked jurisdiction of this Court by filing fresh CRLMC under Section-482 Cr.P.C. taking a different stand.

As such, it is submitted that, the petitioner is liable to be prosecuted under Section 191 of the I.P.C. and punished under Section-193 thereof. The relevant sections are quoted hereunder;

*“191. **Giving false evidence,-** Whoever, being legally bound by an oath or by an express provision of law to state the truth, or being bound by law to make a declaration upon any subject, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, is said to give false evidence .*

*193. **Punishment for false evidence,-** Whoever intentionally gives false evidence in any stage of a judicial proceeding, or fabricates false evidence for the purpose of being used in any stage of a judicial proceeding, shall be punished with imprisonment of*

either description for a term which may extend to seven years, and shall also be liable to fine,

And whoever intentionally gives or fabricates false evidence in any other case, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine. ”

10. On a bare perusal of the Order dtd. 10.05.2022, it is seen that the CRLMC was permitted to be withdrawn with liberty to file afresh with better particulars. And, the interim order dtd. 27.04.2021 merged with the order of withdrawal and consequentially the interim stay got vacated.

11. This Court had issued notice on 27.04.2022 to test the veracity of the assertions in the CRLMC petition which primarily rested on the purported compromise between the parties. But since the said CRLMC was withdrawn, no prejudice was caused to the petitioner.

12. In the considered opinion of this Court, in the factual matrix of the case at hand, the prayer for invoking the jurisdiction of this Court for prosecuting the petitioner under Section-191, I.P.C **does not merit consideration.**

13. Accordingly, the I.A. Stands disposed of.

(V.Narasingh)
Judge

I.A. No. 1260 of 2022

Order No.

06.

1. Heard.
2. Learned counsel for the petitioner is permitted to take return of the copy of the order dtd. 03.11.2020 at Annexure-3 by substituting the same by duly attested Photostat copy.
3. The I.A. Is accordingly disposed of.

Balaram

*(V.Narasingh)
Judge*

